DOCUMENT RESUME

ED 373 283 CG 025 567

TITLE	Alternative Punishments for Young Offenders. Report together with Dissenting Views To Accompany H.R. 3351. House of Representatives, 103d Congress, 1st Session.
INSTITUTION	Congress of the U.S., Washington, D.C. House Committee on the Judiciary.
REPORT NO	House-R-103-321
PUB DATE	3 Nov 93
NOTE	29p.
PUB TYPE	Legal/Legislative/Regulatory Materials (090)
EDRS PRICE	MF01/PC02 Plus Postage.
DESCRIPTORS	Adolescents; Children; *Correctional Rehabilitation; *Crime; Criminal Law; *Criminals; Delinquent Rehabilitation; Elementary Secondary Education; Rehabilitation Programs; *Young Adults; *Youth
IDENTIFIERS	*Alternative Punishments; Omnibus Crime Control and Safe Streets Act; Violent Crime Control Act 1994

ABSTRACT

This report of the Congressional Committee on the Judiciary, comments favorably on the bill H.R. 3351, an amendment to the Omnibus Crime Control and Safe Streets Act of 1968. H.R. 3351 is intended to assist the States and local governments in developing alternatives to traditional modes of probation and incarceration for certain young offenders. Such alternatives would enable probation and correctional systems to provide certainty of punishment for those 28 years and younger, in forms designed to have a greater impact on these young offenders than mere probation. The alternatives provided would also allow punishment of young offenders in settings other than traditional incarceration when it is appropriate and consistent with the demands of public safety. This report, directed to the full House, includes a summary of the bill's purpose, the background to the bill, and a section-by-section analysis. Also detailed is an amendment to the bill. A dissenting view to H.R. 3351 appears at the end. Attached to the report is a copy of H.R. 3351. (RJM)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

CG

103D CONGRESS
1st Session
HOUSE OF REPRESENTATIVES
REPORT
103–321

ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

ED 373 283

NOVEMBER 3, 1993.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BROOKS, from the Committee on the Judiciary, submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 3351]

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)
☐ This document has been reproduced as received from the person or organization originating it.
☐ Minor changes have been made to improve reproduction quality.
• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 3351) to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. CERTAINTY OF PUNISHMENT FOR YOUNG OFFENDERS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), is amended—

(1) by redesignating part Q as part R;

(2) by redesignating section 1701 as section 1801; and

(3) by inserting after part P the following:

"PART Q—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"SEC. 1701. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the

79–006

CG025567

BEST COPY AVAILABLE

use by States and units of local government in the States, for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation.

"(b) ALTERNATIVE METHODS.—The alternative methods of punishment referred to in subsection (a) should ensure certainty of punishment for young offenders and promote reduced recidivism, crime prevention, and assistance to victims, particularly for young offenders who can be punished more effectively in an environment other than a traditional correctional facility, including—

"(1) alternative sanctions that create accountability and certainty of punishment for young offenders;

"(2) boot camp prison programs;

"(3) technical training and support for the implementation and maintenance of State and local restitution programs for young offenders;

"(4) innovative projects;

"(5) correctional options, such as community-based incarceration, weekend incarceration, and electronic monitoring of offenders;

"(6) community service programs that provide work service placement for young offenders at non-profit, private organizations and community organizations;

"(7) demonstration restitution projects that are evaluated for effectiveness; and

"(8) innovative methods that address the problems of young offenders convicted of serious substance abuse (including alcohol abuse, and gang-related offenses), including technical assistance and training to counsel and treat such offenders.

"SEC. 1703. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part, the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(b) STATE OFFICE.—The office designated under section 507 of this title—

"(1) shall prepare the application as required under subsection (a); and

"(2) shall administer grant funds received under this part, including review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 1704. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Director, in consultation with the Director of the National Institute of Corrections, shall make a grant under section 1701(a) to carry out the projects described in the application submitted by such applicant under section 1702 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application, the Director has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 1702 shall be considered approved, in whole or in part, by the Director not later than 45 days after first received unless the Director informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects, other than alternative facilities described in section 1701(b).

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Director shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 1705. LOCAL APPLICATIONS.

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 1701(b).

"(2) Such application shall be considered approved, in whole or in part, by the State not later than 45 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If such application is approved, the unit of local government is eligible to receive such funds.

"(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 1701 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 45 days after the Director has approved the application submitted by the State and has made funds available to the State. The Director shall have the authority to waive the 45-day requirement in this section upon a finding that the State is unable to satisfy such requirement under State statutes.

"SEC. 1705. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) STATE DISTRIBUTION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the number of young offenders of such State bears to the number of young offenders in all the participating States.

"(b) LOCAL DISTRIBUTION.—(1) A State that receives funds under this part in a fiscal year shall distribute to units of local government in such State for the purposes specified under section 1701 that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for correctional programs in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for correctional programs in such preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by such State for purposes specified under section 1701.

"(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for such fiscal year will not be used by such State or that a State is not eligible to receive funds under section 1701, the Director shall award such funds to units of local government in such State giving priority to the units of local government that the Director considers to have the greatest need.

"(c) GENERAL REQUIREMENT.—Notwithstanding the provisions of subsections (a) and (b), not less than two-thirds of funds received by a State under this part shall be distributed to units of local government unless the State applies for and receives a waiver from the Director of the Bureau of Justice Assistance.

"(d) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1702(a) for the fiscal year for which the projects receive assistance under this part.

"SEC. 1706. EVALUATION.

"(a) IN GENERAL.—(1) Each State and local unit of government that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in accordance with guidelines issued by the Director and in consultation with the National Institute of Justice.

"(2) The Director may waive the requirement specified in paragraph (1) if the Director determines that such evaluation is not warranted in the case of the State or unit of local government involved.

"(b) DISTRIBUTION.—The Director shall make available to the public on a timely basis evaluations received under subsection (a).

"(c) ADMINISTRATIVE COSTS.—A State and local unit of government may use not more than 5 percent of funds it receives under this part to develop an evaluation program under this section.".

(b) CONFORMING AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), is amended by striking the matter relating to part Q and inserting the following:

"PART Q—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"Sec. 1701. Grant authorization.
"Sec. 1702. State applications.
"Sec. 1703. Review of State applications.
"Sec. 1704. Local applications.
"Sec. 1705. Allocation and distribution of funds.
"Sec. 1706. Evaluation.

"PART R—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1801. Continuation of rules, authorities, and proceedings."

(c) DEFINITION.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)), is amended by adding after paragraph (23) the following:

"(24) The term 'young offender' means an individual 28 years of age or younger.".

SEC. 2. AUTHORIZATION OF APPROPRIATION.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended by adding after paragraph (10) the following:

"(11) There are authorized to be appropriated $200,000,000 for each of the fiscal years 1994, 1995, and 1996 to carry out the projects under part Q.".

EXPLANATION OF AMENDMENT

Inasmuch as H.R. 3351 was ordered reported with a single amendment in the nature of a substitute, the contents of this report constitute an explanation of that amendment.

SUMMARY AND PURPOSE

H.R. 3351 is intended to assist the States and local governments in developing alternatives to traditional modes of probation and incarceration for certain young offenders. Such alternatives would enable probation and correctional systems to provide certainty of punishment for youthful offenders in forms designed to have a greater impact on these young offenders than mere probation. The alternatives provided would also allow punishment of young offenders in settings other than traditional incarceration when it is appropriate and consistent with the demands of public safety.

H.R. 3351 authorizes critical financial assistance to develop, test and expand correctional options, including community-based and weekend incarceration; boot-camp prison programs; electronic monitoring of offenders; vocational and educational options; programs for offenders to provide restitution to victims; and other punishments targeted selectively at young offenders. The groups targeted are youthful offenders who might otherwise receive no more punishment than unsupervised probation and those young offenders who do not need to be incarcerated to protect public safety but might be sent to prison because of a lack of meaningful alternatives.

BACKGROUND

Too often the youthful criminal offender gets away with no more punishment than a slap on the wrist. The Committee considers this precisely the wrong message at the wrong time. Instead of learning that "crime doesn't pay," young offenders often come to believe that the system has no teeth. Judges and sentencing bodies, faced with a lack of meaningful alternatives between probation and incarceration, and reluctant to incarcerate young offenders, often give such offenders unrestricted probation or suspended sentences for their first offenses, and sometimes even for their second and third offenses.[1] Thus, inadvertently, the lack of meaningful and effective punishment can reinforce criminal behavior and encourage recidivism.

[1] Testimony and written statement of Judge Bryant Culpepper, Macon, GA; and testimony and written statement of Judge Albert L. Kramer, Judge, Quincy District Court, Quincy, MA; both before the Subcommittee on Crime and Criminal Justice, June 26, 1991.

Nonetheless, some young offenders are sentenced to prison who do not need to be incarcerated in order to guarantee the public safety.[2] These young people are too often occupying expensive prisons cells because there are no meaningful less expensive, alternative punishments.[3] The Committee notes that the prison overcrowding situation is reaching crisis proportions, with the Nation's prison population now at the 1 million mark—more than double that population of a decade ago. Tragically, the need to make room for young offenders who do get incarcerated often results in the early release of truly violent and dangerous criminals.[4]

The Committee also notes the dramatically increasing costs of prison construction, staffing, and annual maintenance across the country. Empirical studies,[5] as well as pilot programs in States and localities across the Nation,[6] have shown that alternatives to incarceration work successfully to prevent young offenders from becoming repeat criminals and to reintegrate into society as productive and law-abiding members.

The Committee is informed that some of the most innovative approaches to certainty of punishment have been at the local level. At its hearing on June 26, 1991, the Subcommittee on Crime and Criminal Justice heard from Derrick Thomas, a member of the Kansas City Chiefs football team, who participated in one such program as a juvenile. At age 14, Mr. Thomas told the Subcommittee, he was falling into a crowd where drugs, gangs, and crime were a part of everyday life. After his first burglary charge, a local judge ordered him to undergo treatment at the Dade (Florida) Marine Institute, a program where seamanship and boating skills were taught as a way to build character. Mr. Thomas credited this program with redirecting his life.

Also testifying at that hearing were Judge Bryant Culpepper from Macon, Georgia, and Mr. David Jordan of the Georgia Department of Corrections. Both described Georgia's use of alternative approaches, which include boot camps and strictly supervised community service. In addition, representatives of the United States Sentencing Commission and the Federal Bureau of Prisons testified or submitted written statements in support of alternatives to incarceration and unsupervised probation.

BRIEF EXPLANATION OF H.R. 3351

In order to ensure certainty of punishment for youthful offenders while ensuring the public safety, and to ensure that prison cells are reserved for those offenders who most require incarceration, H.R. 3351 is designed to encourage States and local governments to explore alternatives to unsupervised probation for and traditional in-

---

[2] Id.
[3] Id.
[4] Id.
[5] See, for example, *Criminal Justice Newsletter*, volume 20, number 12, June 15, 1989; Greenwood and Zimring, *One More Chance*, Rand (Santa Monica, CA, 1985); Schwartz, *Justice for Juveniles*, Lexington Books (Lexington, MA, 1989).
[6] Some of the most successful local programs were described by their leaders at the Subcommittee's June 26, 1991 hearing. Robert S. Weaver, Vice President of Associated Marine Industries, testified about the AMI-run Florida Environmental Industries program. David Jordan, Assistant Director of the Georgia Department of Corrections, testified about his state's Comprehensive Correctional Boot Camp Program. Judge Albert Kramer testified about the Earn It Program that he created for the Quincy Court district in Massachusetts.

carceration of youthful offenders. The bill authorizes for appropriation $200 million for each of the fiscal years 1994 through 1996 for this purpose.

H.R. 3351 specifically focuses on alternatives for young offenders up to 28 years of age. These alternatives can include a wide range of programs, such as: boot camps, work programs, vocational and/or educational programs, restitution programs, electronic monitoring, weekend incarceration and intensive supervision probation.

102D CONGRESS

An earlier version of H.R. 3351 originated in the 102d Congress. After its hearing on June 26, 1991, the Subcommittee on Crime and Criminal Justice reported a Certainty of Punishment grant program which subsequently was included in a comprehensive anticrime bill, H.R. 3371. H.R. 3371 was reported favorably by the Judiciary Committee and passed by the House. After a House-Senate conference, H.R. 3371 again passed the House, with the unchanged grant program included as Subtitle J of Title XI. However, the Conference Report on H.R. 3371 failed to become law in the 102d Congress because the Senate did not vote on it prior to adjournment sine die.

103D CONGRESS

In the 103d Congress, the Certainty of Punishment program was included as Subtitle C of Title VI of a comprehensive crime bill, H.R. 3131. The grant program was subsequently introduced as a separate bill, H.R. 3351.

COMMITTEE ACTION

On October 28, 1993, the Committee on the Judiciary, a reporting quorum being present, ordered H.R. 3351, as amended, favorably reported to the full House by a voice vote.

SECTION-BY-SECTION ANALYSIS

SECTION 1

This section amends title I of the Omnibus Crime Control and Safe Streets Act of 1968 to create a new grant program to ensure certainty of punishment for young offenders.

Subsection (a).—This subsection would add a new Part Q—Alternative Punishments for Young Offenders—to title I of the Omnibus Crime Control and Safe Streets Act of 1968. This Part would contain the following provisions:

Section 1701. Grant Authorization.—Authorizes a program of grants to States and local governments for the purpose of developing alternative methods of punishment to traditional forms of probation and incarceration. Such methods, designed to be targeted particularly at young offenders who can be punished more effectively in an environment other than a traditional correctional facility, include:

Alternative sanctions that create accountability and certainty of punishment for young offenders;

Boot camp prison programs;

Technical training and support for the implementation and maintenance of State and local restitution programs for young offenders;

Innovative projects;

Correctional options, such as community-based incarceration, weekend incarceration, and electronic monitoring of offenders;

Community service programs that provide work service placement for young offenders at nonprofit, private organizations and community organizations;

Demonstration restitution projects that are evaluated for effectiveness; and

Innovative methods that address the problems of young offenders convicted of serious substance abuse, including alcohol abuse, and gang-related offenses, including technical assistance and training to counsel and treat such offenders.

Section 1702. State Applications.—Provides for States to make application to the Director of the Bureau of Justice Assistance (the "Director") for grants, and requires each application to contain assurances that any Federal funds received by the State will not supplant non-Federal funds that would otherwise be spent for the purposes of this grant program.

Section 1703. Review of State Applications.—Provides for review of grant applications by the Director of the Bureau of Justice Assistance in consultation with the Director of the National Institute of Corrections.

As the latest crime figures indicate that violent crime is growing faster in rural America than in metropolitan areas[7], it is the intent of the Committee that the Director ensure that assistance under this program reflect a fair proportion of funds being distributed to all areas of the country from which applications are received.

Section 1704 Local Applications.—Provides for the distribution of grant funds received by States to local governments.

Under this section, localities apply for grant funds through their chief executives. Unless the State—in writing within 45 days of receipt—expressly indicates to a locality the State's specific reasons for disapproval of an application, that application shall be considered approved by the State, in whole or in part, after that 45 day period.

The section further provides that a State shall not disapprove an application without first affording the applicant reasonable notice and an opportunity for reconsideration.

Within 45 days after the Director of the Bureau of Justice Assistance has approved a State's application for funds and has made funds available to the State, the State must make such funds available to the localities, unless the Director has granted a waiver based upon the State's inability to satisfy this requirement under State statutes.

Section 1705 Allocation and Distribution of Funds.—Establishes the allocation of grant funds among States and, within each recipient State, between the State and its local governments. The formula for dividing grants among States is as follows:

---

[7] *See* U.S. Department of Justice, Federal Bureau of Investigation, *Crime in the United States*, Uniform Crime Report, 1992, at 238, 247, and 256.

0.4 percent of the funds appropriated in any fiscal year shall be allocated to each participating State. The remaining funds must be allocated to the participating States in proportion to each participating State's share of the total population of young offenders in all participating States.

Each recipient State is then required to distribute to local governments a portion of the funds it receives. This distribution must be proportionate to the ratio of funds spent on correctional programs by local governments in the State, in the fiscal year preceding the distribution, to the total amount of funds spent in that year on correctional programs by the State and its local governments combined.

The section provides further that any funds not distributed to units of local government shall be available for expenditure by the State for program purposes. If the Director determines that allocated funds for the fiscal year will not be used by a State or that the State is not eligible to receive funds under section 1701, the Director must award those funds to the State's units of local government, with priority to those that the Director believes have the greatest need.

This section also provides that, notwithstanding the allocation of grant funds as provided above, not less than two-thirds of the funds received by a State under this Act shall be distributed to units of local government unless the State applies for and receives a waiver form the Bureau of Justice Assistance.

The section further provides that the Federal share of a grant made under this program may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1702(a) for the fiscal year for which the projects receive assistance under this grant program.

Section 1706. Evaluation.—Requires each recipient State and local government to submit to the Director, not later than March 1 of each year, an evaluation of the projects funded by grants made pursuant to this program. The Director must make those evaluations available to the public on a timely basis. The Director can waive the evaluation report requirement if the Director determines it is not warranted in particular cases. This section also limits to 5 percent the amount of any grant that can be spent on developing an evaluation program.

Subsection (b) makes conforming amendments to the table of contents of the Omnibus Crime Control and Safe Streets Act of 1968.

Subsection (c) defines the term "young offender" as an individual 28 years of age or younger.

SECTION 2

This section authorizes to be appropriated $200 million for each of the fiscal years 1994, 1995, and 1996 to carry out this grant program.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(l)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activi-

ties under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT OPERATIONS OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Operations were received as referred to in clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(l)(3)(B) of House Rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(l)(C)(3) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill H.R. 3353, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 1, 1993.

Hon. JACK BROOKS,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3351, a bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation.

Enactment of H.R. 3351 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER, *Director.*

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 3351.

2. Bill title: A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation.

3. Bill status: As ordered reported by the House Committee on the Judiciary on October 28, 1993.

4. Bill purpose: H.R. 3351 would authorize appropriations of $200 million for each of fiscal years 1994 through 1996 for grants

to state and local governments to develop alternative methods of punishment for young offenders.

5. Estimated cost to the Federal Government:

[By fiscal year, in millions of dollars]

	1994	1995	1996	1997	1998
Authorization of appropriations	200	200	200	.....	.....
Estimated outlays	44	120	190	156	80

The costs of this bill fall within budget function 750.

Basis of estimate: The estimate assumes that the Congress will appropriate the full amounts authorized. The outlay estimates are based on the historical spending rates for similar activities.

6. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. CBO estimates that enactment of H.R. 3351 would not affect direct spending or receipts. Therefore, pay-as-you-go procedures would not apply to the bill.

7. Estimated cost to State and local governments: Recipients of the grants authorized by H.R. 3351 would be required to fund at least 25 percent of the cost of the projects for which the grants are intended. We estimate that the share paid by state and local governments would amount to about $200 million over the fiscal years 1994 to 1998.

8. Estimate comparison: None.

9. Previous CBO estimate: None.

10. Estimate prepared by: Mark Grabowicz.

11. Estimate approved by: C.G. Nuckols, Assistant Director for Budget Analysis.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that H.R. 3353 will have no significant inflationary impact on prices and costs in the national economy.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT OF 1968

* * * * * * *

TITLE I—JUSTICE SYSTEM IMPROVEMENT

TABLE OF CONTENTS

PART A—OFFICE OF JUSTICE PROGRAMS

Sec. 101. Establishment of Office of Justice Programs.

Sec. 102. Duties and functions of Assistant Attorney General.

* * * * * * *

[PART Q—TRANSITION—EFFECTIVE DATE—REPEALER

[Sec. 1701. Continuation of rules, authorities, and proceedings.]

PART Q—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

Sec. 1701. Grant authorization.
Sec. 1702. State applications.
Sec. 1703. Review of State applications.
Sec. 1704. Local applications.
Sec. 1705. Allocation and distribution of funds.
Sec. 1706. Evaluation.

PART R—TRANSITION—EFFECTIVE DATE—REPEALER

Sec. 1801. Continuation of rules, authorities, and proceedings.

* * * * * * *

PART I—DEFINITIONS

DEFINITIONS

SEC. 901. (a) As used in this title—

(1) * * *

* * * * * * *

(24) The term "young offender" means an individual 28 years of age or younger.

* * * * * * *

PART J—FUNDING

AUTHORIZATION OF APPROPRIATIONS

SEC. 1001. (a)(1) * * *

* * * * * * *

(11) There are authorized to be appropriated $200,000,000 for each of the fiscal years 1994, 1995, and 1996 to carry out the projects under part Q.

* * * * * * *

PART Q—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

SEC. 1701. GRANT AUTHORIZATION.

(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (referred to in this part as the "Director") may make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation.

(b) ALTERNATIVE METHODS.—The alternative methods of punishment referred to in subsection (a) should ensure certainty of punishment for young offenders and promote reduced recidivism, crime prevention, and assistance to victims, particularly for young offend-

ers who can be punished more effectively in an environment other than a traditional correctional facility, including—

(1) alternative sanctions that create accountability and certainty of punishment for young offenders;

(2) boot camp prison programs;

(3) technical training and support for the implementation and maintenance of State and local restitution programs for young offenders;

(4) innovative projects;

(5) correctional options, such as community-based incarceration, weekend incarceration, and electronic monitoring of offenders;

(6) community service programs that provide work service placement for young offenders at non-profit, private organizations and community organizations;

(7) demonstration restitution projects that are evaluated for effectiveness; and

(8) innovative methods that address the problems of young offenders convicted of serious substance abuse (including alcohol abuse, and gang-related offenses), including technical assistance and training to counsel and treat such offenders.

SEC. 1702. STATE APPLICATIONS.

(a) IN GENERAL.—(1) To request a grant under this part, the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

(b) STATE OFFICE.—The office designated under section 507 of this title—

(1) shall prepare the application as required under subsection (a); and

(2) shall administer grant funds received under this part, including review of spending, processing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

SEC. 1703. REVIEW OF STATE APPLICATIONS.

(a) IN GENERAL.—The Director, in consultation with the Director of the National Institute of Corrections, shall make a grant under section 1701(a) to carry out the projects described in the application submitted by such applicant under section 1702 upon determining that—

(1) the application is consistent with the requirements of this part; and

(2) before the approval of the application, the Director has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

(b) APPROVAL.—Each application submitted under section 1702 shall be considered approved, in whole or in part, by the Director not later than 45 days after first received unless the Director informs the applicant of specific reasons for disapproval.

(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects, other than alternative facilities described in section 1701(b).

(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Director shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

SEC. 1704. LOCAL APPLICATIONS.

(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 1701(b).

(2) Such application shall be considered approved, in whole or in part, by the State not later than 45 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

(4) If such application is approved, the unit of local government is eligible to receive such funds.

(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 1701 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 45 days after the Director has approved the application submitted by the State and has made funds available to the State. The Director shall have the authority to waive the 45-day requirement in this section upon a finding that the State is unable to satisfy such requirement under State statutes.

SEC. 1705. ALLOCATION AND DISTRIBUTION OF FUNDS.

(a) STATE DISTRIBUTION.—Of the total amount appropriated under this part in any fiscal year—

(1) 0.4 percent shall be allocated to each of the participating States; and

(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the number of young offenders of such State bears to the number of young offenders in all the participating States.

(b) LOCAL DISTRIBUTION.—(1) A State that receives funds under this part in a fiscal year shall distribute to units of local government in such State for the purposes specified under section 1701 that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for correctional programs in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for correctional programs in such preceding fiscal year.

(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by such State for purposes specified under section 1701.

(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to

a State for such fiscal year will not be used by such State or that a State is not eligible to receive funds under section 1701, the Director shall award such funds to units of local government in such State giving priority to the units of local government that the Director considers to have the greatest need.

(c) GENERAL REQUIREMENT.—Notwithstanding the provisions of subsections (a) and (b), not less than two-thirds of funds received by a State under this part shall be distributed to units of local government unless the State applies for and receives a waiver from the Director of the Bureau of Justice Assistance.

(d) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the application submitted under section 1702(a) for the fiscal year for which the projects receive assistance under this part.

SEC. 1706. EVALUATION.

(a) IN GENERAL.—(1) Each State and local unit of government that receives a grant under this part shall submit to the Director an evaluation not later than March 1 of each year in accordance with guidelines issued by the Director and in consultation with the National Institute of Justice.

(2) The Director may waive the requirement specified in paragraph (1) if the Director determines that such evaluation is not warranted in the case of the State or unit of local government involved.

(b) DISTRIBUTION.—The Director shall make available to the public on a timely basis evaluations received under subsection (a).

(c) ADMINISTRATIVE COSTS.—A State and local unit of government may use not more than 5 percent of funds it receives under this part to develop an evaluation program under this section.

PART [Q] *R*—TRANSITION—EFFECTIVE DATE—REPEALER

CONTINUATION OF RULES, AUTHORITIES, AND PROCEEDINGS

SEC. [1701.] *1801.* (a)(1) All orders, determinations, rules, regulations, and instructions of the Law Enforcement Assistance Administration which are in effect on the date of the enactment of the Justice System Improvement Act of 1979 shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President or the Attorney General, the Office of Justice Assistance, Research, and Statistics or the Director of the Bureau of Justice Statistics, the National Institute of Justice, or the Administrator of the Law Enforcement Assistance Administration with respect to their functions under this title or by operation of law.

(2) All orders, determinations, rules, regulations, and instructions issued under this title which are in effect on the date of the enactment of the Justice Assistance Act of 1984 shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked by the President, the Attorney General, the Assistant Attorney General, the Director of the Bureau of Justice Statistics, the Director of the National Institute of Justice, the Administrator of the Office of Juvenile Justice and Delinquency Prevention, or the Director of the Bureau of Justice Assistance

with respect to their functions under this title or by operation of law.

* * * * * * *

DISSENTING VIEWS OF HON. F. JAMES SENSENBRENNER, JR.

I am opposed to H.R. 3351, which authorizes $200 million for each of 1994 through 1996 for grants to States to develop alternative methods of punishment for young offenders to traditional forms of incarceration and probation. While the purposes of the program created under this bill are laudable, the unfunded nature of this grant program represents a step backward for this Congress. Congress should not once again give the illusion of fighting crime by creating new programs—unfunded programs. Congress does not pay for this program it now proposes. Little, if any, money will actually be available to carry it out. Cuts in spending should not be followed by new spending.

Additionally, expectation are all the more important here. Americans patiently wait, and have waited too long at that, for the federal government to assist in dealing with the crime problem. Promises to throw money at the problem, especially when the money is not available, are not enough.

The GOP crime bills fund their improvements to the criminal justice system. They provide a basis for carrying out the promises made therein. H.R. 2847 (Sensenbrenner, McMillan, Porter), is an alternative GOP crime bill containing the crime control provisions found in S. 8 (Hatch, Thurmond, Simpson, Grassley, Specter, Dole, Brown, Pressler, Nickles). This alternative also contains the innovative spending cuts found in the Nussle/Penny proposed amendment to the Midwest Flood Supplemental Appropriations bill and adds the Brady bill in a format essentially identical to H.R. 1025, the Brady bill as introduced this Congress. These spending cuts rescind certain amounts appropriated in FY 1992 & 1993 that remain unobligated on the date of enactment. The savings amount to over $3 billion.

H.R. 2872, (McCollum, Michel et al.), the Crime Control Act of 1993, contains various innovative measures to pay for new programs. Funding provisions in that bill, e.g., cuts in overhead, and other reforms, raise monies to pay for these and other programs found in H.R. 2872.

JIM SENSENBRENNER, JR.

○

(16)

103D CONGRESS
1ST SESSION

H. R. 3351

IN THE SENATE OF THE UNITED STATES

NOVEMBER 20 (legislative day, NOVEMBER 2), 1993
Received; read twice and referred to the Committee on the Judiciary

AN ACT

To amend the Omnibus Crime Control and Safe Streets Act of 1968 to allow grants for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAINTY OF PUNISHMENT FOR YOUNG OFFENDERS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), is amended—

J. 79-080

(1) by redesignating part Q as part R;

(2) by redesignating section 1701 as section 1801; and

(3) by inserting after part P the following:

"PART Q—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"SEC. 1701. GRANT AUTHORIZATION.

"(a) IN GENERAL.—The Director of the Bureau of Justice Assistance (referred to in this part as the 'Director') may make grants under this part to States, for the use by States and units of local government in the States, for the purpose of developing alternative methods of punishment for young offenders to traditional forms of incarceration and probation.

"(b) ALTERNATIVE METHODS.—The alternative methods of punishment referred to in subsection (a) should ensure certainty of punishment for young offenders and promote reduced recidivism, crime prevention, and assistance to victims, particularly for young offenders who can be punished more effectively in an environment other than a traditional correctional facility, including—

"(1) alternative sanctions that create accountability and certainty of punishment for young offenders;

"(2) boot camp prison programs that include education and job training activities such as programs modeled, to the extent practicable, after activities carried out under part B of title IV of the Job Training Partnership Act (relating to Job Corps) (29 U.S.C. 1691 et seq.);

"(3) technical training and support for the implementation and maintenance of State and local restitution programs for young offenders;

"(4) innovative projects, such as projects consisting of education and job training activities for incarcerated young offenders, modeled, to the extent practicable, after activities carried out under part B of title IV of the Job Training Partnership Act (relating to Job Corps) (29 U.S.C. 1691 et seq.);

"(5) correctional options, such as community-based incarceration, weekend incarceration, and electronic monitoring of offenders;

"(6) community service programs that provide work service placement for young offenders at non-profit, private organizations and community organizations;

"(7) demonstration restitution projects that are evaluated for effectiveness;

"(8) innovative methods that address the problems of young offenders convicted of serious substance abuse (including alcohol abuse, and gang-related offenses), including technical assistance and training to counsel and treat such offenders; and

"(9) the provision for adequate and appropriate after care programs for the young offenders, such as substance abuse treatment, education programs, vocational training, job placement counseling, and other support programs upon release.

"SEC. 1702. STATE APPLICATIONS.

"(a) IN GENERAL.—(1) To request a grant under this part, the chief executive of a State shall submit an application to the Director in such form and containing such information as the Director may reasonably require.

"(2) Such application shall include assurances that Federal funds received under this part shall be used to supplement, not supplant, non-Federal funds that would otherwise be available for activities funded under this part.

"(b) STATE OFFICE.—The office designated under section 507 of this title—

"(1) shall prepare the application as required under subsection (a); and

"(2) shall administer grant funds received under this part, including review of spending, proc-

essing, progress, financial reporting, technical assistance, grant adjustments, accounting, auditing, and fund disbursement.

"SEC. 1703. REVIEW OF STATE APPLICATIONS.

"(a) IN GENERAL.—The Director, in consultation with the Director of the National Institute of Corrections, shall make a grant under section 1701(a) to carry out the projects described in the application submitted by such applicant under section 1702 upon determining that—

"(1) the application is consistent with the requirements of this part; and

"(2) before the approval of the application, the Director has made an affirmative finding in writing that the proposed project has been reviewed in accordance with this part.

"(b) APPROVAL.—Each application submitted under section 1702 shall be considered approved, in whole or in part, by the Director not later than 45 days after first received unless the Director informs the applicant of specific reasons for disapproval.

"(c) RESTRICTION.—Grant funds received under this part shall not be used for land acquisition or construction projects, other than alternative facilities described in section 1701(b).

"(d) DISAPPROVAL NOTICE AND RECONSIDERATION.—The Director shall not disapprove any application without first affording the applicant reasonable notice and an opportunity for reconsideration.

"SEC. 1704. LOCAL APPLICATIONS.

"(a) IN GENERAL.—(1) To request funds under this part from a State, the chief executive of a unit of local government shall submit an application to the office designated under section 1701(b).

"(2) Such application shall be considered approved, in whole or in part, by the State not later than 45 days after such application is first received unless the State informs the applicant in writing of specific reasons for disapproval.

"(3) The State shall not disapprove any application submitted to the State without first affording the applicant reasonable notice and an opportunity for reconsideration.

"(4) If such application is approved, the unit of local government is eligible to receive such funds.

"(b) DISTRIBUTION TO UNITS OF LOCAL GOVERNMENT.—A State that receives funds under section 1701 in a fiscal year shall make such funds available to units of local government with an application that has been submitted and approved by the State within 45 days after

the Director has approved the application submitted by the State and has made funds available to the State. The Director shall have the authority to waive the 45-day requirement in this section upon a finding that the State is unable to satisfy such requirement under State statutes.

"SEC. 1705. ALLOCATION AND DISTRIBUTION OF FUNDS.

"(a) STATE DISTRIBUTION.—Of the total amount appropriated under this part in any fiscal year—

"(1) 0.4 percent shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each of the participating States an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the number of young offenders of such State bears to the number of young offenders in all the participating States.

"(b) LOCAL DISTRIBUTION.—(1) A State that receives funds under this part in a fiscal year shall distribute to units of local government in such State for the purposes specified under section 1701 that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for correctional programs in the preceding fiscal year bears to the aggregate amount of funds

expended by the State and all units of local government in such State for correctional programs in such preceding fiscal year.

"(2) Any funds not distributed to units of local government under paragraph (1) shall be available for expenditure by such State for purposes specified under section 1701.

"(3) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a State for such fiscal year will not be used by such State or that a State is not eligible to receive funds under section 1701, the Director shall award such funds to units of local government in such State giving priority to the units of local government that the Director considers to have the greatest need.

"(c) GENERAL REQUIREMENT.—Notwithstanding the provisions of subsections (a) and (b), not less than two-thirds of funds received by a State under this part shall be distributed to units of local government unless the State applies for and receives a waiver from the Director of the Bureau of Justice Assistance.

"(d) FEDERAL SHARE.—The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the projects described in the applica-

tion submitted under section 1702(a) for the fiscal year for which the projects receive assistance under this part.

"(e) CONSIDERATION.—Notwithstanding subsections (a) and (b), in awarding grants under this part, the Director shall consider as an important factor whether a State has in effect throughout such State a law or policy which—

"(1) requires that a juvenile who is in possession of a firearm or other weapon on school property or convicted of a crime involving the use of a firearm or weapon on school property—

"(A) be suspended from school for a reasonable period of time; and

"(B) lose driving license privileges for a reasonable period of time;

"(2) bans firearms and other weapons in a 100-yard radius of school property, but the State may allow exceptions for school-sponsored activities, as well as other reasonable exceptions.

"(f) DEFINITION.—For purposes of this part, 'juvenile' means 18 years of age or younger.

"SEC. 1706. EVALUATION.

"(a) IN GENERAL.—(1) Each State and local unit of government that receives a grant under this part shall submit to the Director an evaluation not later than March

1 1 of each year in accordance with guidelines issued by the
2 Director and in consultation with the National Institute
3 of Justice.
4 "(2) The Director may waive the requirement speci-
5 fied in paragraph (1) if the Director determines that such
6 evaluation is not warranted in the case of the State or
7 unit of local government involved.
8 "(b) DISTRIBUTION.—The Director shall make avail-
9 able to the public on a timely basis evaluations received
10 under subsection (a).
11 "(c) ADMINISTRATIVE COSTS.—A State and local
12 unit of government may use not more than 5 percent of
13 funds it receives under this part to develop an evaluation
14 program under this section.".
15 (b) CONFORMING AMENDMENT.—The table of con-
16 tents of title I of the Omnibus Crime Control and Safe
17 Streets Act of 1968 (42 U.S.C. 3711 et seq.), is amended
18 by striking the matter relating to part Q and inserting
19 the following:

"PART Q—ALTERNATIVE PUNISHMENTS FOR YOUNG OFFENDERS

"Sec. 1701. Grant authorization.
"Sec. 1702. State applications.
"Sec. 1703. Review of State applications.
"Sec. 1704. Local applications.
"Sec. 1705. Allocation and distribution of funds.
"Sec. 1706. Evaluation.

"PART R—TRANSITION—EFFECTIVE DATE—REPEALER

"Sec. 1801. Continuation of rules, authorities, and proceedings.".

(c) DEFINITION.—Section 901(a) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791(a)), is amended by adding after paragraph (23) the following:

"(24) The term 'young offender' means an individual, convicted of a crime, 22 years of age or younger—

"(A) who has not been convicted of—

"(i) a crime of sexual assault; or

"(ii) a crime involving the use of a firearm in the commission of the crime; and

"(B) who has no prior convictions for a crime of violence (as defined by section 16 of title 18, United States Code) punishable by a period of 1 or more years of imprisonment.".

SEC. 2. AUTHORIZATION OF APPROPRIATION.

Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793) is amended by adding after paragraph (10) the following:

"(11) There are authorized to be appropriated $200,000,000 for each of the fiscal years 1994, 1995, and 1996 to carry out the projects under part Q.".

SEC. 3. SENSE OF THE CONGRESS.

It is the sense of the Congress that States should impose mandatory sentences for crimes involving the use of a firearm or other weapon on school property or within a 100-yard radius of school property.

Passed the House of Representatives November 19, 1993.

Attest: DONNALD K. ANDERSON,

Clerk.